

ELEMENT EIGHT

COMPLAINT PROCESSING PROCEDURES

(29 CFR 37.54(d)(1)(vii))
(29 CFR 37.76 – 37.79)

Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.76 through 37.79 regarding complaint processing procedures.

Background

Consistent with 29 CFR Part 37.76 through 37.79, ESD and its partners maintain compliance with the WIA requirements regarding the processing of discrimination complaints.

Every recipient under WorkSource Washington adheres to WIA Policy Number 3450 - Equal Opportunity Discrimination Complaint Processing Policy and Procedures, and uses the attached USDOL/CRC Complaint Information Form and Privacy Act Consent Form. Recipients are responsible for developing their own discrimination complaint and/or grievance policies and procedures for matters other than those covered under 29 CFR Part 37. (Attachment 8A)

ESD maintains a separate discrimination complaint procedure for employee complaints, allegations or grievances arising in other departmental programs. The discrimination complaint process under 29 CFR Part 37 for employees is separate from that for clients because each recipient's employees have procedural and other rights guaranteed by laws, collective bargaining agreements, policies, etc., specific to that recipient. See Attachment 8B, ESD Policy and Procedure Number 0013 - Discrimination Complaint Procedures for ESD employees.

Process

It is the policy of the state to advise WorkSource clients and employees of their right to file a complaint. Any person who believes that s/he has been discriminated against has the right to file a complaint on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief; their status as a beneficiary of programs financially assisted by Title I of WIA, or on the basis of citizenship/status as a lawfully admitted immigrant authorized to work in the United States; or his/her participation in any WIA Title I-financially assisted program or activity. Complaints must be filed within 180 days of the alleged discrimination. Complainants may file with the local WDC EO Officer or directly with the State EO Officer and/or the Director of the

Civil Rights Center. If the complainant is at least 16 years old but less than 18 years old, the complainant's parent or legal guardian signs the written complaint.

The complaint process provides for prompt and equitable resolution of complaints and includes the following elements:

- Initial, written notice;
- An acknowledgement of receipt;
- Notice of right to representation;
- Issues raised in the complaint;
- A period of fact-finding that includes alternative dispute resolution (ADR)/mediation; and
- A written Notice of Final Action.

Upon receipt of a complaint, EO Officers are required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the complaint:

- The fact that the complaint has been filed;
- The identity of the complainant(s);
- The identity of individual respondents to the allegations; and
- The identity of any persons(s) who furnished information relative to, or assisting in a complaint investigation.

If the local EO Officer determines that another entity has jurisdiction and it is appropriate to refer a complaint, the EO Officer promptly refers the complaint to that entity, properly informs those with a need to know of this decision, and explains why.

A separate system is maintained both locally and at the state level for logging, tracking and reporting on discrimination complaints. This log should contain (1) date complaint was filed, (2) name and address of complainant, (3) ground of complaint, (4) description of complaint, and (5) disposition of complaint.

Recipients are monitored to ensure they are complying with the complaint process.

Responsibilities

The State/ESD EO Officer has overall responsibility for developing and implementing complaint procedures, and ensures agency and partner staff are provided the training required by these regulations. The State/ESD EO Officer provides oversight, monitoring and technical consultation for the processing of all discrimination complaints regarding WIA Title I services, including provision of the ADR/mediation services required under 29 CFR Part 37.

Local-level WDC EO Officers are responsible for:

- Adopting, publicizing and implementing the state discrimination process in their area, in accordance with these regulations;
- Assisting local WorkSource clients in filing a complaint;
- Providing oversight and monitoring for logging, tracking, reporting and processing of all discrimination complaints filed against any local WorkSource partner or local Workforce Development Area recipient or subrecipient regarding WIA Title I services; and
- Providing local intake services for discrimination complaints to determine if the complaint is covered by 29 CFR Part 37, resolving jurisdictional issues and, if appropriate, routing the complaint to the appropriate WorkSource partner or WDA recipient/subrecipient for processing.

The local EO Officer confers with the State/ESD EO Officer promptly upon receipt of the complaint, prior to determining jurisdiction over the matter.

Local EO Officers may provide training within their respective areas.

Communication

Information regarding the complaint process is made available to department and partner staff, as well as clients. Posters informing and instructing applicants on complaint procedures are posted throughout the WorkSource Washington System to recipients, subrecipients, affiliate and co-location sites. During the initial applicant intake interview, an explanation of the full range of services available, including the complaint system, is provided to applicants. Applicants also receive a handout or brochure that explains department and partner services and the WIA Title I complaint procedure. This handout has been translated into Spanish; other languages are being considered where there are major LEP groups within the state. The handout is accessible to clients needing other formats or additional assistance upon request. All ESD staff members are provided with a copy of the complaint procedure.

ESD's WorkSource web site provides a link to a copy of the EO Notice in English and Spanish. The site will be revised to include the list of local and state EO Officers, the WIA discrimination complaint procedures and complaint forms. See Elements 2 and 7.

Documentation

Attachments for Element Eight

8A Revised WIA Policy Number 3450 - EO Discrimination Complaint Processing Policy and Procedure and attached USDOL/CRC Complaint Information Form and Privacy Act Consent Form

8B Revised ESD Policy and Procedure Number 0013 - Discrimination Complaint Procedures (for employees), including Complaint Form